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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/492,154	01/27/2000	Toru Ueda	0033-0638P-SP	9504

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EXAMINER

PARTON, KEVIN S

ART UNIT	PAPER NUMBER
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2153

15

DATE MAILED: 09/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/492,154	Applicant(s) UEDA ET AL.	
Examiner Kevin Parton	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>14</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 4, 5, 8, 9, 11-18, and 20-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Asano (USPN 5,881,240).

3. Regarding claim 1, Asano (USPN 5,881,240) teaches a data transfer system comprising:

- a. An attribute information acquiring unit (*personal computer 98*) acquiring attribute information of data managed by an equipment (*printer unit 74*) connected to a network wherein the attribute is included in the content of data (*determining based on the content of the response any transmission speeds*) received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).

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- b. A transfer selecting unit (*personal computer 98*) selecting a method of data transfer based on the attribute information of data acquired by the attribute information acquiring unit (*the computer 98 makes a positive determination...and sets its own transmission speed*) (column 8, lines 40-42; column 8, lines 60-63).
- c. A data receiving unit receiving data by the method of transfer selected by the transfer selecting unit (*Input/Output Interface*) (column 8, lines 60-65; figure 3, element 116).

4. Regarding claims 4, 8, and 11 Asano (USPN 5,881,240) teaches all the limitations as applied to claims 1, 5, and 9 respectively. He further teaches means wherein the transfer selecting unit includes a command set selecting unit selecting a command set based on the attribute information of data acquired by the attribute information acquiring unit (column 8, lines 38-42; column 8, lines 50-52; column 8, lines 60-63). Note that the command to set transfer speed is sent by the transfer selecting unit.

5. Regarding claim 5, Asano (USPN 5,881,240) teaches a data transfer system comprising:

- a. An attribute information acquiring unit acquiring attribute information of data managed by an equipment connected to a network wherein the attribute is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).

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- b. A transfer selecting unit selecting a method of data transfer based on the attribute information of data acquired by the attribute information acquiring unit (column 8, lines 40-42; column 8, lines 60-63).
 - c. A data transmitting unit transmitting data by the method of transfer selected by the transfer selecting unit (column 8, lines 60-65; figure 3, element 116).
- 6. Regarding claim 9, Asano (USPN 5,881,240) teaches a data transfer system comprising:
 - a. An equipment attribute information acquiring unit acquiring attribute information of an equipment connected to a network wherein the attribute is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
 - b. An equipment attribute information selecting unit selecting attribute information of first and second equipments among equipment attribute information acquired by the equipment attribute information acquiring unit (column 8, line 60 – column 9, line 22). Note that the computer of the reference determines attributes for two separate connected pieces of equipment.
 - c. A data attribute information acquiring unit acquiring attribute information of data managed by the first equipment selected by the equipment attribute information selecting unit (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).

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- d. A transfer selecting unit selecting a method of data transfer based on the attribute information of data acquired by the data attribute information acquiring unit and on attribute information of the second computer (column 8, lines 40-42; column 8, lines 60-63, column 8, line 60 – column 9, line 22).

Note that the transmission rate may be based on the capabilities of the second piece of equipment.

- e. A data transfer instructing unit instructing data transfer from the first equipment to the second equipment by the method of transfer selected by the transfer selecting unit (column 8, lines 60-65; figure 3, element 116).

7. Regarding claims 12 and 15, Asano (USPN 5,881,240) teaches a data transfer system with means for:

- a. Acquiring attribute information of data managed by an equipment connected to a network wherein the attribute information is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
- b. Selecting a method of data transfer based on the acquired attribute information of data (column 8, lines 40-42; column 8, lines 60-63).
- c. Receiving data by the selected method of transfer (column 8, lines 60-65; figure 3, element 116).

8. Regarding claims 13 and 16, Asano (USPN 5,881,240) teaches a data transfer system with means for:

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- a. Acquiring attribute information of data managed by an equipment connected to a network wherein the attribute information is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
- b. Selecting a method of data transfer based on the acquired attribute information of data (column 8, lines 40-42; column 8, lines 60-63).
- c. Transmitting data by the selected method of transfer (column 8, lines 60-65; figure 3, element 116).

9. Regarding claims 14 and 17, Asano (USPN 5,881,240) teaches a data transfer system with means for:

- a. Acquiring attribute information acquiring unit acquiring attribute information of an equipment connected to a network wherein the attribute is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
- b. Selecting attribute information of first and second equipments from the attribute information of equipments (column 8, line 60 – column 9, line 22).
Note that the computer of the reference determines attributes for two separate connected pieces of equipment.
- c. Acquiring attribute information of data managed by the selected first equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).

- d. Selecting a method of data transfer based on the acquired attribute information of data and the attribute information of the second computer (column 8, lines 40-42; column 8, lines 60-63, column 8, line 60 – column 9, line 22). Note that the transmission rate may be based on the capabilities of the second piece of equipment.
 - e. Instructing data transfer from the first equipment to the second equipment by the selected method of transfer (column 8, lines 60-65; figure 3, element 116).
- 10. Regarding claim 18, Asano teaches a system for data transfer comprising:
 - a. An attribute information acquiring unit acquiring attribute information of data managed by an equipment connected to a network from the equipment using a common protocol wherein the attribute information is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42). The initial communications are in a common protocol.
 - b. A transfer selecting unit selecting a method of data transfer based on the attribute information of data acquired by the attribute information acquiring unit (column 8, lines 40-42; column 8, lines 60-63).
 - c. A data receiving unit receiving data by the method of transfer selected by the transfer selecting unit (column 8, lines 60-65; figure 3, element 116).
- 11. Regarding claim 20, Asano teaches a system for data transfer comprising:
 - a. An attribute information acquiring unit acquiring attribute information of data managed by an equipment connected to a network from the equipment using a

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common protocol wherein the attribute information is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42). The initial communications are in a common protocol.

- b. A transfer selecting unit selecting a method of data transfer based on the attribute information of data acquired by the attribute information acquiring unit (column 8, lines 40-42; column 8, lines 60-63).
- c. A data transmitting unit transmitting data by the method of transfer selected by the transfer selecting unit (column 8, lines 60-65; figure 3, element 116).

12. Regarding claim 21, Asano (USPN 5,881,240) teaches a data transfer system comprising:

- a. An equipment attribute information acquiring unit acquiring attribute information of an equipment connected to a network from the equipment using a common protocol wherein the attribute is included in the content of data received in a communication from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
- b. An equipment attribute information selecting unit selecting attribute information of first and second equipments among equipment attribute information acquired by the equipment attribute information acquiring unit (column 8, line 60 – column 9, line 22). Note that the computer of the reference determines attributes for two separate connected pieces of equipment.

- c. A data attribute information acquiring unit acquiring attribute information of data managed by the first equipment selected by the equipment attribute information selecting unit (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).
- d. A transfer selecting unit selecting a method of data transfer based on the attribute information of data acquired by the data attribute information acquiring unit and on attribute information of the second computer (column 8, lines 40-42; column 8, lines 60-63, column 8, line 60 – column 9, line 22).
Note that the transmission rate may be based on the capabilities of the second piece of equipment.
- e. A data transfer instructing unit instructing data transfer from the first equipment to the second equipment by the method of transfer selected by the transfer selecting unit (column 8, lines 60-65; figure 3, element 116).

13. Regarding claims 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33, Asano (USPN 5,881,240) teaches all the limitations as applied to claims 1, 5, 9, 12, 13, 14, 15, 16, 17, 18, 20, and 21, respectively, above. He further teaches means wherein the attribute information is extracted from the communication (abstract; column 8, lines 40-42).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 2, 6, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asano (USPN 5,881,240) in view of the Microsoft Press Computer Dictionary (1997).

16. Regarding claims 2 and 6, although the system disclosed by Asano (USPN 5,881,240) (as applied to claims 1 and 5, respectively) shows substantial features of the claimed invention, it fails to disclose specifically means wherein the data receiving unit receives data by a plurality of physical layers.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Asano (USPN 5,881,240) as evidenced by the Microsoft Press Computer Dictionary.

The Microsoft Press Computer Dictionary defines physical layer as “The first, or lowest, of the seven layers in the...(OSI) model for standardizing computer-to-computer communications (page 364).

Given this well known definition and availability of the physical layer, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Asano (USPN 5,881,240) by employing the use of multiple physical communications links. This benefits the system because it is a basic unit of computer networking.

17. Regarding claim 19, Asano (USPN 5,881,240) teaches all the limitations as applied to claim 18. He further teaches means wherein:

- a. The attribute information acquiring unit acquires information from the equipment (abstract; figure 3, element 98; column 2, lines 31-44; column 8, lines 38-42).

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- b. The transfer selecting unit selects the method of data transfer based on the attribute information of data selected by a user among the information acquired by the attribute information acquiring unit (column 8, lines 40-42; column 8, lines 60-63).

Although the system disclosed by Asano (USPN 5,881,240) shows substantial features of the claimed invention, it fails to disclose means wherein the attribute information is acquired as a directory information.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Asano (USPN 5,881,240).

A person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Asano (USPN 5,881,240) by employing the use of a directory for storing the information. Asano (USPN 5,881,240) uses files to send the information to the acquiring unit, so a directory system is in use although not explicitly described by Asano (USPN 5,881,240). This benefits the system because larger numbers of devices can be managed using a structured directory system.

18. Claims 3, 7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asano (USPN 5,881,240) in view of Feuerstraeter et al. (USPN 6,285,659).

19. Regarding claims 3 and 7, although the system disclosed by Asano (USPN 5,881,240) (as applied to claims 1 and 5, respectively) shows substantial features of the claimed invention, it fails to disclose means wherein the transfer selecting unit includes a protocol selecting unit selecting a protocol based on the attribute information of data acquired by the attribute information acquiring unit.

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Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Asano (USPN 5,881,240), as evidenced by Feuerstraeter et al. (USPN 6,285,659).

In an analogous art, Feuerstraeter et al. (USPN 6,285,659) discloses a system for the automatic selection of a protocol for communications with means wherein the transfer selecting unit includes a protocol selecting unit selecting a protocol based on the attribute information of data acquired by the attribute information acquiring unit (title; column 5, lines 50-52).

Given the teaching of Feuerstraeter et al. (USPN 6,285,659), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Asano (USPN 5,881,240) by employing including protocol as an attribute to be selected. This benefits the system because in addition to transmission speed, the system can also define the optimal protocol for communication among the elements thus improving speed and reliability.

20. Regarding claim 10, although the system disclosed by Asano (USPN 5,881,240) (as applied to claim 9) shows substantial features of the claimed invention, it fails to disclose means wherein the transfer selecting unit selects a protocol based on the attribute information of data acquired by the data attribute information acquiring unit.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Asano (USPN 5,881,240), as evidenced by Feuerstraeter et al. (USPN 6,285,659).

In an analogous art, Feuerstraeter et al. (USPN 6,285,659) discloses a system for the automatic selection of a protocol for communications with means wherein the transfer selecting

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unit selects a protocol based on the attribute information of data acquired by the data attribute information acquiring unit (title; column 5, lines 50-52).

Given the teaching of Feuerstraeter et al. (USPN 6,285,659), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Asano (USPN 5,881,240) by employing including protocol as an attribute to be selected. This benefits the system because in addition to transmission speed, the system can also define the optimal protocol for communication among the elements thus improving speed and reliability.

Conclusion

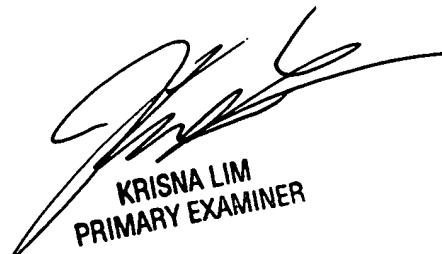
21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sridhar et al. (USPN 6,266,701) teach a system for the automatic selection of communication protocol.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Parton whose telephone number is (703)306-0543. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703)305-4792. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

ksp


KRISNA LIM
PRIMARY EXAMINER

Kevin Parton
Examiner
Art Unit 2153